

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

Jerohn Mizell,

Plaintiff,

V.

Conn Appliances, Inc.,

Defendant.

Civil Action No.: 4:15-cv-00550

COMPLAINT

JURY

For this Complaint, Plaintiff, Jerohn Mizell, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act 47 U.S.C. § 227, *et seq.* (the "TCPA").

2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. Plaintiff, Jerohn Mizell (“Plaintiff”), is an adult individual residing in Lewisville, Texas, and is a “person” as defined by 47 U.S.C. § 153(39).

4. Defendant, Conn Appliances, Inc. (hereafter “Conn”), is a company with an address of 4055 Technology Forest Boulevard, Suite 210, The Woodlands, Texas 77381, and is a “person” as defined by 47 U.S.C. § 153(39).

FACTS

5. In or around June 2014, Conn began placing calls to Plaintiff's cellular telephone, number 469-xxx-2160, using an automatic telephone dialing system and using an artificial or prerecorded voice.

6. When Plaintiff answered calls from Conn, he heard a prerecorded message indicating that Conn was attempting to reach "Maria Soto".

7. Plaintiff does not know Maria Soto and does not know how Conn acquired his cellular telephone number.

8. Plaintiff did not provide prior express consent to Conn to place calls to his cellular telephone number.

9. In or around July 2014, Plaintiff advised Conn that it had the wrong number and directed Conn to cease calling his cellular telephone number.

10. Nevertheless, Conn continued to place automated calls to Plaintiff's cellular telephone number.

COUNT I
VIOLATIONS OF THE TCPA – 47 U.S.C. § 227, et seq.

11. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

12. At all times mentioned herein, Conn called Plaintiff on his cellular telephone using an ATDS or predictive dialer and/or by using a prerecorded or artificial voice.

13. Plaintiff did not provide express consent to be contacted on his cellular telephone, and in fact instructed Conn to cease all calls to his cellular telephone number.

14. Conn continued to place calls to Plaintiff's cellular telephone number after being advised that it was calling the wrong number. As such, each call placed to Plaintiff was made in

knowing and/or willful violation of the TCPA, and is subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

15. The telephone number called by Conn was assigned to a cellular telephone service pursuant to 47 U.S.C. § 227(b)(1).

16. The calls from Conn to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

17. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

18. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(1)(A);
- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
- C. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: August 13, 2015

Respectfully submitted,

By /s/ Jenny DeFrancisco

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CT Bar No.: 432383

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